

§ 4207.5

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the bond or escrow shall be paid to the plan upon notice from the plan sponsor to the bonding or escrow agent. A bond provided under this paragraph shall be issued by a corporate surety company that is an acceptable surety for purposes of section 412 of ERISA.

(c) *Notice of bond/escrow.* Concurrently with posting a bond or establishing an escrow account under paragraph (b) of this section, the employer shall notify the plan sponsor. The notice shall include a statement of the amount of the bond or escrow, the scheduled payment or payments with respect to which the bond or escrow is being furnished, and the name and address of the bonding or escrow agent.

(d) *Plan amendments concerning bond/escrow.* A plan may, by amendment, adopt rules decreasing the amount specified in paragraph (b) of a bond or escrow allowed under this section. A plan amendment adopted under this paragraph may be applied only to the extent that it is consistent with the purposes of ERISA.

§ 4207.5 Requirements for abatement.

(a) *General rule.* Except as provided in § 4207.9 (d) and (e) (pertaining to acquisitions, mergers and other combinations), an eligible employer that completely withdraws from a multiemployer plan and subsequently reenters the plan shall have its liability for that withdrawal abated in accordance with § 4207.3(c) if the employer resumes covered operations under the plan, and the number of contribution base units with respect to which the employer has an obligation to contribute under the plan for the measurement period (as defined in paragraph (b) of this section) after it resumes covered operations exceeds 30 percent of the number of contribution base units with respect to which the employer had an obligation to contribute under the plan for the base year (as defined in paragraph (c) of this section).

(b) *Measurement period.* If the employer resumes covered operations under the plan at least six full months prior to the end of a plan year and would satisfy the test in paragraph (a) based on its contribution base units for that plan year, then the measurement period shall be the period from the date

it resumes covered operations until the end of that plan year. If the employer would not satisfy this test, or if the employer resumes covered operations under the plan less than six full months prior to the end of the plan year, the measurement period shall be the first twelve months after it resumes covered operations.

(c) *Base year.* For purposes of paragraph (a) of this section, the employer's number of contribution base units for the base year is the average number of contribution base units for the two plan years in which its contribution base units were the highest, within the five plan years immediately preceding the year of its complete withdrawal.

§ 4207.6 Partial withdrawals after reentry.

(a) *General rule.* For purposes of determining whether there is a partial withdrawal of an eligible employer whose liability is abated under this part upon the employer's reentry into the plan or at any time thereafter, the plan sponsor shall apply the rules in section 4205 of ERISA, as modified by the rules in this section, and section 108 of the Multiemployer Act. A partial withdrawal of an employer whose liability is abated under this part may occur under these rules upon the employer's reentry into the plan. However, a plan sponsor may not demand payment of withdrawal liability for a partial withdrawal occurring upon the employer's reentry before the plan sponsor has determined that the employer's liability for its complete withdrawal is abated under this part and has so notified the employer in accordance with § 4207.3(b).

(b) *Partial withdrawal—70-percent contribution decline.* The plan sponsor shall determine whether there is a partial withdrawal described in section 4205(a)(1) of ERISA (relating to a 70-percent contribution decline) in accordance with the rules in section 4205 of ERISA and section 108 of the Multiemployer Act, as modified by the rules in this paragraph, and shall determine the amount of an employer's liability for that partial withdrawal in accordance with the rules in § 4207.8(b).

(1) *Definition of "3-year testing period."* For purposes of section 4205(b)(1)